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SENATE BILL 3054 By
Cohen

HOUSE BILL 3051
By Burchett

AN ACT to amend Tennessee Code Annotated, Title 4, relative to
the free exercise of religion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding Sections 2
through 6 of this act as a new chapter.

SECTION 2. The legislature finds that:

(1) The state constitution recognizes the free exercise and enjoyment of
religious profession and worship, without discrimination or preference, as an inherent
and fundamental right; and

(2) Laws "facially neutral" toward religion, as well as laws intended to interfere
with religious exercise, may burden religious exercise and profession; and

(3) Governments should not substantially burden religious exercise without
compelling justification; and

(4) The compelling interest test, as set forth in the federal cases of Wisconsin v.
Yoder, 406 U.S. 205 (1972), and Sherbert v. Verner, 374 U.S. 398 (1963), is a workable
test for striking sensible balances between religious liberty and competing governmental
interests.

SECTION 3. It is the intent of the legislature:

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(1) To guarantee that a test of compelling state interest will be imposed on all state and local laws and ordinances in all cases in which free exercise and enjoyment of religious profession and worship is substantially burdened; and

(2) To provide a claim or defense to persons whose religious profession and worship is substantially burdened by government.

SECTION 4. (a) Government shall not substantially burden a person's exercise and enjoyment of religious profession and worship even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

(b) Government may substantially burden a person's exercise and enjoyment of religious profession and worship only if it demonstrates that application of the burden to the person:

(1) Is in furtherance of a compelling governmental interest; and

(2) Is the least restrictive means of furthering that compelling governmental interest.

(c) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. A party who prevails in any action to enforce this act against a government shall recover attorney's fees and costs.

SECTION 5. As used in this act:

(1) "Government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law), of the state, a municipality, a county or subdivision of the state;

(2) "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion; and

(3) "Exercise and enjoyment of religious profession and worship" means the practice of religion under Section Three, Article I of the Tennessee Constitution.

SECTION 6. (a) This act applies to all state and local laws, resolutions and ordinances and the implementation of such laws, resolutions and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date of this act.

(b) State law adopted after the effective date of this act shall be subject to this act unless such law explicitly excludes such application by reference to this act.

(c) Nothing in this act shall be construed to authorize any government to burden any religious belief.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.